Nexia Edwards Marshall

Fringe Benefits Tax: Property Benefits

A property benefit arises where an employer provides free or discounted property to an employee. Property can include either tangible or intangible property and is regarded as having been provided when ownership passes to the employee. Where the person has the use of the property prior to the title passing, the property is deemed to have been provided as at the date that the recipient obtained use of the property. If title never passes then no property benefit has been provided, instead a residual benefit will have arisen.

Examples of property benefits are:

- Goods manufactured in-house that are gifted or sold to the employee at a discount
- Employer-owned items such as motor vehicles, computers or other office equipment provided to an employee
- Use of a corporate credit card by an employee to pay for food or drink.

Where a property benefit is provided, the calculation of the taxable value differs depending on whether it is an in-house property benefit or an external property benefit.

Also note that, as with all fringe benefits, benefits provided by associates of the employer, or by third parties under an arrangement with the employee are also caught, as are benefits provided to associates of the employee, or to other persons at the direction of the employee or an associate.

In-House Benefits

An in-house property benefit arises when tangible property is provided to an employee or associate by the employer or a third party.

For an in-house property benefit to arise, all of the following requirements must be satisfied:

- The property must consist of goods. For this purpose, goods includes items such as animals and non-reticulated gas and electricity but not items such as real estate, buildings or shares; and either
  - where the benefit is provided by the employer or an associate, the property is identical or similar to property sold in the ordinary course of your business; or
  - where the benefit is not provided by the employer or an associate, the property must be acquired by the provider from the employer or an associate and must be identical or similar to the property sold by both the employer and the provider in the ordinary course of business on or about the time the benefit is provided.

Property will be classified as being identical or similar to property sold in the ordinary course of your business when the two items are alike and generally resemble each other. The differences must be small.

The valuation of in-house property benefits is dependent upon the market that the product is normally sold or the circumstances in which it is purchased.

Taxable Value of In-House Property Benefits

Refer to Appendix A

Note that the first $1,000 of the total taxable value of in-house benefits provided to an employee and/or their associate in an FBT year are exempt from fringe benefits tax provided that they are not salary sacrificed.

Taxable Value - External Benefits

An external property benefit is any property fringe benefit that is not an in-house property benefit. The taxable value will depend on how the benefit was provided to the employee:

Benefit Provider	Benefit Provided	Taxable Value
Employer or associate	Property purchased under an arm's length transaction at or about the time the benefit was provided to the employee	The cost price to the employer reduced by any employee contribution
Provider was not the employer or an associate, but the employer or an associate incurred expenditure to the provider under an arm's length transaction in respect of the provision of the benefit.	Property	Any amount paid, reduced by any employee contribution

If neither or the above situations apply then the taxable value is calculated as the amount that the employee could reasonably be expected to pay for the property under an arm's length transaction and reduced by any employee contribution.

Exemptions & Reductions

The 'Otherwise Deductible' Rule

To the extent that the employee would have been entitled to a once only deduction, the taxable value of the property benefit can be reduced. A once only deduction is a deduction that is wholly or partly allowable in one year of income and not any other year and therefore excludes items that are deductible over several years such as depreciation, prepayments and borrowing expenses.

To reduce the value of the benefit, the employer must normally obtain a written declaration and documentary evidence from the employee concerned before the date the fringe benefit tax return is lodged.

Where identical recurring benefits are being provided a single declaration can be made. The declaration will remain in force until any of the following occur:

- it is revoked by the making of a subsequent declaration;
- five years passes from the date on which the declaration is originally made; or
- the percentage of business use falls by more than 10 percentage points.

Identical benefits are ones which are the same in all respects except for any differences that are minimal or insignificant, or that relate to the value of the benefits, or that relate to a change in the deductible proportion of 10 percentage points or less.

The 'Otherwise Deductible' Rule (continued)

An employee declaration is not required in respect of any exclusive air line transport, exclusive employee expense payment, exclusive employee property or exclusive employee residual benefits, i.e. benefits which relate exclusively to gaining or producing salary or wages of the recipient in respect of the employment to which the fringe benefit relates and which is not expenditure in relation to interest. It isn't sufficient that the expenditure was in respect of gaining or producing assessable income of the recipient generally, it must relate to the employment to which the fringe benefit relates.

Exclusive benefits are still subject to the requirement to obtain documentary evidence of the benefit and travel diaries where applicable.

Changes were made to the way in which the otherwise deductible rule applies in respect of benefits which are provided jointly (joint benefits) to an employee and their associate (e.g. a spouse) from 13 May 2008. These include joint loan benefits, joint expense payment benefits, joint property benefits and joint residual benefits. Common examples of these types of benefits include salary packaging deductible expenses that relate to a jointly owned negatively geared investment, such as a jointly owned rental property or share investment.

Previously the otherwise deductible rule applied to a benefit that was provided jointly to an employee and their associate (e.g. a spouse) because of s.138(3) which treats the benefit as if it were only (i.e. solely) provided to the employee.

Under the current rules, the 'otherwise deductible rule' will only apply to reduce the taxable value of the relevant benefit by the employee's percentage of interest in the income producing asset or thing to which the benefit relates (s. 44(5)). That is in effect, the taxable value of the benefit is only reduced by the employee's share of the benefit. As a result, the otherwise deductible rule will not apply (in which case, FBT will generally be payable) in respect of the associate's share of the relevant joint benefit, unless they are also an employee of the same employer.

Car Property Benefits

Special rules apply where a car property benefit is provided to an employee. A car property benefit arises when a car is owned or leased by the employee or an associate and had the recipient incurred expenditure in respect of the provision of the property benefit (i.e. fuel), that expenditure would have been a car expense. There are three methods of determining the hypothetical value that would have been deductible to the employee. Please contact us if you require any further information.

Other Reductions

There are other potential reductions that may apply to property fringe benefits:

- Remote area residential fuel
- Remote area housing assistance
- Relocation - meals
- In-house fringe benefits - tax free threshold
- Living away from home - food provided

Property Provided and Consumed on Employer's Premises

Property that is provided to current employees on the employer's premises and consumed on a working day is an exempt property benefit. If the employer is a company it may also be on the premises of a related company. This exemption does not apply to:

- employers that are exempt from income tax where the entertainment arises as a result of providing the property benefit;
- employers who choose to use the meal entertainment provisions and calculate the taxable value under the 50:50 split method or the 12-week register method; or
- meals provided under a salary sacrifice arrangement after 7.30pm AEST on 13 May 2008. Existing balances on meal cards as at 7.30pm on 13 May 2008 remained eligible for the exemption provided they were used by 31 March 2009. Any increases after this time will be subject to FBT.

Remote Area - Certain Meals Provided to Employees in Primary Production

Property benefits arising from providing non-entertainment meals to an employee employed in primary production business located in a remote area are exempt benefits.

How can Nexia Edwards Marshall help you?

If you have any questions relating to property benefits, or any other FBT related topic, please contact Raoul Stevenson or your Nexia Edwards Marshall Advisor.

Key contact: Raoul Stevenson

Raoul is a Senior Manager in Nexia Edwards Marshall's Business Consulting and Taxation divisions.

As Senior Manager of the Fringe Benefits Tax (FBT) team, Raoul provides valuable expertise to both the firm and its clients, including schools where he has hosted FBT presentations. His knowledge has helped clients and their staff optimise the benefits of salary sacrifice arrangements.

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Appendix A: Taxable Value of In-house Property Benefits

Identical property was manufactured, produced, processed or treated by the Benefit Provider			Identical property was not manufactured, produced, processed or treated by the Benefit Provider	
Property was sold by provider to manufacturers, wholesalers or retailers at or about the time the benefit was provided	Property was sold by provider to the public at or about the time the benefit was provided under similar terms and conditions (other than price)	In any other case	Property was acquired by the provider	In any other case
Taxable Value = the lowest price at which identical property could reasonably be expected to have been sold under an arm's length transaction at or about the same time. Reduced by the amount of any recipient contribution and any other reductions (such as under the otherwise deductible rule).	Taxable Value = 75% of the lowest price at which that property was sold to the public at or about the same time. Reduced by the amount of any recipient contribution and any other reductions (such as under the otherwise deductible rule).	Taxable Value = 75% of the amount that the person could reasonably be expected to pay to obtain the property from the provider under an arm's length transaction. Reduced by the amount of any recipient contribution and any other reductions (such as under the otherwise deductible rule).	Taxable Value = the lesser of the arm's length price in relation to the acquisition of the property by the provider and the amount that the person could reasonably be expected to pay to obtain the property from the provider under an arm's length transaction. Reduced by the amount of any recipient contribution and any other reductions (such as under the otherwise deductible rule).	Taxable Value = 75% of the amount that the person could reasonably be expected to pay to obtain the property from the provider under an arm's length transaction. Reduced by the amount of any recipient contribution and any other reductions (such as under the otherwise deductible rule).